

Assembly Bill No. 2273

Passed the Assembly August 28, 2002

Chief Clerk of the Assembly

Passed the Senate August 27, 2002

Secretary of the Senate

This bill was received by the Governor this _____ day of
_____, 2002, at _____ o'clock __M.

Private Secretary of the Governor

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CHAPTER _____

An act to amend Sections 1808.1, 12509, and 12814.6 of, and to add Section 12814.7 to, the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 2273, Dutra. Vehicles.

Existing law provides for the issuance of a class C driver's license upon passage of written and road tests. Drivers' licenses held by persons at least 16 years of age, but less than 18 years of age, are distinctive and are issued pursuant to a provisional license program requiring that the individual complete driver education, training, and instruction, restricting their driving privilege, and providing for restriction or suspension, as specified.

Existing law provides that prospective employers and employers of certain drivers, as specified, must obtain reports showing the driver's current Department of Motor Vehicles record. Existing law provides for a pull-notice system by which employers are notified of subsequent actions taken against a driver. Under existing law, employment of a driver against whom a disqualifying action has been taken by the Department of Motor Vehicles is a public offense.

Existing law provides that the department may issue instruction permits to certain individuals, as specified, that allow the permitholder to operate a motor vehicle subject to certain restrictions including that he or she be supervised by a California licensed driver who is at least 25 years of age unless the licensed driver is the parent, spouse, or guardian of the permitholder, as specified.

This bill would provide that instruction permitholders, other than those issued a permit in connection with the provisional licensing program for persons under 18 years of age, may be supervised by a California licensed driver who is at least 18 years of age, as specified, and would remove the exception for individuals who are the parent, spouse, or guardian of the permitholder.

This bill would provide that the Department of Motor Vehicles may first issue an instruction permit to operate government owned vehicles while taking driver training instruction administered by



the California National Guard, and then a class C license to individuals upon successful completion of examination and driving tests and presentation of an executed enlistment contract with the California National Guard, restricted to operation of United States Army and California National Guard vehicles during the course and scope of employment with the California National Guard. This bill would provide that an applicant who is at least 16 years of age, but less than 18 years of age, would be issued a restricted class C license, however, this bill would provide that the licensee would be subject to certain provisions governing restriction or suspension of the license.

This bill would provide that the status of the license issued pursuant to these provisions shall become part of the pull-notice and report program that provides information to employers of commercial drivers.

The bill would authorize the Department of Motor Vehicles to enter into an interagency agreement with the Military Department for reimbursement for the costs of implementing specified provisions of the bill.

The people of the State of California do enact as follows:

SECTION 1. Section 1808.1 of the Vehicle Code is amended to read:

1808.1. (a) The prospective employer of a driver who drives any vehicle specified in subdivision (k) shall obtain a report showing the driver's current public record as recorded by the department. For purposes of this subdivision, a report is current if it was issued less than 30 days prior to the date the employer employs the driver. The report shall be reviewed, signed, and dated by the employer and maintained at the employer's place of business until receipt of the pull-notice system report pursuant to subdivisions (b) and (c). These reports shall be presented upon request to any authorized representative of the Department of the California Highway Patrol during regular business hours.

(b) The employer of a driver who drives any vehicle specified in subdivision (k) shall participate in a pull-notice system, which is a process for the purpose of providing the employer with a report showing the driver's current public record as recorded by the department, and any subsequent convictions, failures to appear,



accidents, driver's license suspensions, driver's license revocations, or any other actions taken against the driving privilege or certificate, added to the driver's record while the employer's notification request remains valid and uncanceled. As used in this section, participation in the pull-notice system means obtaining a requester code and enrolling all employed drivers who drive any vehicle specified in subdivision (k) under that requester code.

(c) The employer of a driver of any vehicle specified in subdivision (k) shall, additionally, obtain a periodic report from the department at least every 12 months. The employer shall verify that each employee's driver's license has not been suspended or revoked, the employee's traffic violation point count, and whether the employee has been convicted of a violation of Section 23152 or 23153. The report shall be signed and dated by the employer and maintained at the employer's principal place of business. The reports shall be presented upon demand to any authorized representative of the Department of the California Highway Patrol during regular business hours.

(d) Upon the termination of a driver's employment, the employer shall notify the department to discontinue the driver's enrollment in the pull-notice system.

(e) For the purposes of the pull-notice system and periodic report process required by subdivisions (b) and (c), owners, other than owner-operators as defined in Section 34624, and employers who drive vehicles described in subdivision (k) shall be enrolled as if they were employees. Family members and volunteer drivers who drive vehicles described in subdivision (k) shall also be enrolled as if they were employees.

(f) An employer who, after receiving any driving record pursuant to this section, employs or continues to employ as a driver any person against whom a disqualifying action has been taken regarding his or her driving privilege or required driver's certificate, is guilty of a public offense, and upon conviction thereof, shall be punished by confinement in a county jail for not more than six months, by a fine of not more than one thousand dollars (\$1,000), or by both that confinement and fine.

(g) As part of its inspection of bus maintenance facilities and terminals required at least once every 13 months pursuant to subdivision (c) of Section 34501, the Department of the California



Highway Patrol shall determine whether each transit operator, as defined in Section 99210 of the Public Utilities Code, is then in compliance with this section and Section 12804.6, and shall certify each operator found to be in compliance. No funds shall be allocated under Chapter 4 (commencing with Section 99200) of Part 11 of Division 10 of the Public Utilities Code to a transit operator which the Department of the California Highway Patrol has not certified under this section.

(h) A request to participate in the pull-notice system established by this section shall be accompanied by a fee determined by the department to be sufficient to defray the entire actual cost to the department for the notification service. For the receipt of subsequent reports, the employer shall also be charged a fee established by the department pursuant to Section 1811. Any employer who qualifies under Section 1812 shall be exempt from any fee required under this section. Failure to pay the fee shall result in automatic cancellation of the employer's participation in the notification services.

(i) The department, as soon as feasible, may establish an automatic procedure to provide the periodic reports to employers by mail or via an electronic delivery method, as required by subdivision (c), on a regular basis without the need for individual requests.

(j) (1) The employer of a driver who is employed as a casual driver is not required to enter that driver's name in the pull-notice system, as otherwise required by subdivision (a). However, the employer of a casual driver shall be in possession of a report of the driver's current public record as recorded by the department, prior to allowing a casual driver to drive any vehicle specified in subdivision (k). A report is current if it was issued less than six months prior to the date the employer employs the driver.

(2) For the purposes of this subdivision, a driver is employed as a casual driver when the employer has employed the driver less than 30 days during the preceding six months. "Casual driver" does not include any driver who operates a vehicle that requires a passenger transportation endorsement.

(k) This section applies to any vehicle for the operation of which the driver is required to have a class 1, class 2, class A, or class B driver's license, a class C license with a hazardous materials endorsement, a class C license issued pursuant to Section



12814.7, or a certificate issued pursuant to Section 12512, 12517, 12519, 12520, 12523, or 12523.5, or any passenger vehicle having a seating capacity of not more than 10 persons, including the driver, operated for compensation by a charter-party carrier of passengers or passenger stage corporation pursuant to a certificate of public convenience and necessity or a permit issued by the Public Utilities Commission.

(l) This section shall not be construed to change the definition of “employer,” “employee,” or “independent contractor” for any purpose.

(m) A motor carrier who contracts with any person to drive any vehicle described in subdivision (k) which is owned by, or leased to, that motor carrier, shall be subject to subdivisions (a), (b), (c), (d), (f), (j), (k), and (l) and the employer obligations therein.

SEC. 2. Section 12509 of the Vehicle Code is amended to read:

12509. (a) Except as otherwise provided in subdivision (f) of Section 12514, the department, for good cause, may issue an instruction permit to any physically and mentally qualified person who meets one of the following requirements and who applies to the department for an instruction permit:

(1) Is age 15 years and 6 months or over and has successfully completed approved courses in automobile driver education and driver training as provided in paragraph (3) of subdivision (a) of Section 12814.6.

(2) Is age 15 years and 6 months or over and has successfully completed an approved course in automobile driver education and is taking driver training as provided in paragraph (3) of subdivision (a) of Section 12814.6.

(3) Is age 15 years or over and is enrolled in an approved driver education course and is at the same time or during the same semester enrolled in an approved driver training course.

(4) Is over the age of 17 years and 6 months.

(5) Is over the age of 16 years and is applying for a restricted driver’s license pursuant to Section 12814.7.

(b) The applicant shall qualify for and be issued an instruction permit within 12 months from the date of the application.

(c) An instruction permit issued pursuant to subdivision (a) shall entitle the applicant to operate a vehicle, subject to the limitations imposed by this section and any other provisions of



law, upon the highways for a period not exceeding 24 months from the date of the application.

(d) Except as provided in Section 12814.6, any person, while having in his or her immediate possession a valid permit issued pursuant to paragraphs (1) to (4), inclusive, of subdivision (a), may operate a motor vehicle, other than a motorcycle or a motorized bicycle, when accompanied by, and under the immediate supervision of, a California licensed driver with a valid license of the appropriate class, 18 years of age or over whose driving privilege is not on probation. Except as provided in subdivision (e), an accompanying licensed driver at all times shall occupy a position within the driver's compartment that would enable the accompanying licensed driver to assist the person in controlling the vehicle as may be necessary to avoid a collision and to provide immediate guidance in the safe operation of the vehicle.

(e) Any person while having in his or her immediate possession a valid permit issued pursuant to paragraphs (1) to (4), inclusive, of subdivision (a), who is age 15 years and 6 months or over and who has successfully completed approved courses in automobile education and driver training as provided in paragraph (3) of subdivision (a) of Section 12814.6, and any person while having in his or her immediate possession a valid permit issued pursuant to subdivision (a) who is age 17 years and 6 months or over, may, in addition to operating a motor vehicle pursuant to subdivision (d), also operate a motorcycle or a motorized bicycle, except that the person shall not operate a motorcycle or a motorized bicycle during hours of darkness, shall stay off any freeways that have full control of access and no crossings at grade and shall not carry any passenger except an instructor licensed under Chapter 1 (commencing with Section 11100) of Division 5 of this code or a qualified instructor as defined in Section 18252.2 of the Education Code.

(f) Any person while having in his or her immediate possession a valid permit issued pursuant to paragraph (5) of subdivision (a), may only operate a government owned motor vehicle, other than a motorcycle or a motorized bicycle, when taking the driver training instruction administered by the California National Guard as required by paragraph (2) of subdivision (a) of Section 12814.7.

(g) The department may also issue an instruction permit to a person who has been issued a valid driver's license to authorize the



person to obtain driver training instruction and to practice that instruction in order to obtain another class of driver's license or an endorsement.

(h) The department may further restrict permits issued under subdivision (a) as it may determine to be appropriate to assure the safe operation of a motor vehicle by the permittee.

SEC. 2.5. Section 12814.6 of the Vehicle Code is amended to read:

12814.6. (a) Except as provided in Section 12814.7, any driver's license issued to a person at least 16 years of age but under 18 years of age shall be issued pursuant to the provisional licensing program contained in this section. The program shall consist of all of the following components:

(1) Upon application for an original license, the applicant shall be issued an instruction permit pursuant to Section 12509. A person who has in his or her immediate possession a valid permit issued pursuant to Section 12509 may operate a motor vehicle, other than a motorcycle or motorized bicycle, only when either taking the driver training instruction referred to in paragraph (3) or when practicing that instruction and when accompanied by and under the immediate supervision of a California licensed driver who is least 25 years of age and whose driving privilege is not on probation. The age requirement of this paragraph does not apply if the licensed driver is the parent, spouse, or guardian of the permit holder or is a licensed or certified driving instructor.

(2) The person shall hold an instruction permit for not less than six months prior to applying for a provisional driver's license.

(3) The person shall have complied with one of the following:

(A) Satisfactory completion of approved courses in automobile driver education and driver training maintained pursuant to provisions of the Education Code in any secondary school of California, or equivalent instruction in a secondary school of another state.

(B) Satisfactory completion of six hours or more of behind-the-wheel instruction by a driving school or an independent driving instructor licensed under Chapter 1 (commencing with Section 11100) of Division 5 and either an accredited course in automobile driver education in any secondary school of California pursuant to provisions of the Education Code or satisfactory completion of equivalent professional instruction



acceptable to the department. To be acceptable to the department, the professional instruction shall meet minimum standards to be prescribed by the department, which standards shall be at least equal to the requirements for driver education and driver training contained in the rules and regulations adopted by the State Board of Education pursuant to the Education Code. A person who has complied with this subdivision shall not be required by the governing board of a school district to comply with subparagraph (A) in order to graduate from high school.

(C) No student shall take driver training instruction unless he or she is taking driver education at the same time or has successfully completed driver education.

(4) The person shall complete 50 hours of supervised driving practice prior to the issuance of a provisional license, which is in addition to any other driver training instruction required by law. Not less than 10 of the required practice hours shall include driving during darkness, as defined in Section 280. Upon application for a provisional license, the person shall submit to the department the certification of a parent, spouse, guardian, or licensed or certified driving instructor that the applicant has completed the required amount of driving practice and is prepared to take the department's driving test. A person without a parent, spouse, guardian, or who is an emancipated minor, may have a licensed driver 25 years of age or older or a licensed or certified driving instructor complete the certification. This requirement does not apply to motorcycle practice.

(5) The person shall successfully complete an examination required by the department. Before retaking a test, the person shall wait for not less than one week after failure of the written test and for not less than two weeks after failure of the driving test.

(b) Except as provided in Section 12814.7, the provisional driver's license shall be subject to all of the following restrictions:

(1) Except as specified in paragraph (3), during the first six months after issuance of a provisional license the licensee shall not do any of the following unless accompanied and supervised by a licensed driver who is the licensee's parent or guardian, a licensed driver who is 25 years of age or older, or a licensed or certified driving instructor:

(A) Drive between the hours of 12 a.m. and 5 a.m.

(B) Transport passengers who are under 20 years of age.



(2) During the second six months after issuance of a provisional license the licensee may transport passengers under the age of 20 years between the hours of 5 a.m. and 12 a.m. without supervision. This driving time restriction shall not modify or alter any local ordinance that restricts or prohibits cruising during specified proscribed hours. However, the restriction imposed under subparagraph (A) of paragraph (1) shall continue to apply during this period.

(3) A licensee may drive between the hours of 12 a.m. and 5 a.m. or transport an immediate family member without being accompanied and supervised by a licensed driver who is the licensee's parent or guardian, a licensed driver who is 25 years of age or older, or a licensed or certified driving instructor, in the following circumstances:

(A) Medical necessity of the licensee when reasonable transportation facilities are inadequate and operation of a vehicle by a minor is necessary. The licensee shall keep in his or her possession a signed statement from a physician familiar with the condition, containing a diagnosis and probable date when sufficient recovery will have been made to terminate the necessity.

(B) Schooling or school-authorized activities of the licensee when reasonable transportation facilities are inadequate and operation of a vehicle by a minor is necessary. The licensee shall keep in his or her possession a signed statement from the school principal, dean, or school staff member designated by the principal or dean, containing a probable date that the schooling or school-authorized activity will have been completed.

(C) Employment necessity of the licensee when reasonable transportation facilities are inadequate and operation of a vehicle by a minor is necessary. The licensee shall keep in his or her possession a signed statement from the employer, verifying employment and containing a probable date that the employment will have been completed.

(D) Necessity of the licensee or the licensee's immediate family member when reasonable transportation facilities are inadequate and operation of a vehicle by a minor is necessary to transport the licensee or the licensee's immediate family member. The licensee shall keep in his or her possession a signed statement from a parent or legal guardian verifying the reason and containing a probable date that the necessity will have ceased.



(E) The licensee is an emancipated minor.

(c) A law enforcement officer shall not stop a vehicle for the sole purpose of determining whether the driver is in violation of the restrictions imposed under subdivision (b).

(d) (1) Upon a finding that any licensee has violated paragraph (1) or (2) of subdivision (b), the court shall impose one of the following:

(A) Not less than eight hours nor more than 16 hours of community service for a first offense and not less than 16 hours nor more than 24 hours of community service for a second or subsequent offense.

(B) A fine of not more than thirty-five dollars (\$35) for a first offense and a fine of not more than fifty dollars (\$50) for a second or subsequent offense.

(2) If the court orders community service, the court shall retain jurisdiction until the hours of community service have been completed.

(3) If the hours of community service have not been completed within 90 days, the court shall impose a fine of not more than thirty-five dollars (\$35) for a first offense and not more than fifty dollars (\$50) for a second or subsequent offense.

(e) No conviction of paragraph (1) or (2) of subdivision (b), when reported to the department, shall be disclosed as otherwise specified in Section 1808 or constitute a violation point count value pursuant to Section 12810.

(f) Any term of restriction or suspension of the driving privilege imposed on a person pursuant to this subdivision shall remain in effect until the end of the term even though the person becomes 18 years of age before the term ends.

(1) The driving privilege shall be suspended when the record of the person shows one or more notifications issued pursuant to Section 40509 or 40509.5. The suspension shall continue until any notification issued pursuant to Section 40509 or 40509.5 has been cleared.

(2) A 30-day restriction shall be imposed when a driver's record shows a violation point count of two or more points in 12 months, as determined in accordance with Section 12810. The restriction shall require the licensee to be accompanied by a licensed parent, spouse, guardian, or other licensed driver 25 years



of age or older, except when operating a class M vehicle, or so licensed, with no passengers aboard.

(3) A six-month suspension of the driving privilege and a one-year term of probation shall be imposed whenever a licensee's record shows a violation point count of three or more points in 12 months, as determined in accordance with Section 12810. The terms and conditions of probation shall include, but not be limited to, both of the following:

(A) The person shall violate no law which, if resulting in conviction, is reportable to the department under Section 1803.

(B) The person shall remain free from accident responsibility.

(g) Whenever action by the department under subdivision (f) arises as a result of a motor vehicle accident, the person may, in writing and within 10 days, demand a hearing to present evidence that he or she was not responsible for the accident upon which the action is based. Whenever action by the department is based upon a conviction reportable to the department under Section 1803, the person has no right to a hearing pursuant to Article 3 (commencing with Section 14100) of Chapter 3.

(h) The department shall require any person whose driving privilege is suspended or revoked pursuant to subdivision (f) to submit proof of financial responsibility as defined in Section 16430. The proof of financial responsibility shall be filed on or before the date of reinstatement following the suspension or revocation. The proof of financial responsibility shall be maintained with the department for three years following the date of reinstatement.

(i) Notwithstanding any other provision of this code, the department may issue a distinctive driver's license, which displays a distinctive color or a distinctively colored stripe or other distinguishing characteristic, to persons at least 16 years of age and older but under 18 years of age, and to persons 18 years of age and older but under 21 years of age, so that the distinctive license feature is immediately recognizable. The features shall clearly differentiate between drivers' licenses issued to persons at least 16 years of age or older but under 18 years of age and to persons 18 years of age or older but under 21 years of age.

If changes in the format or appearance of drivers' licenses are adopted pursuant to this subdivision, those changes may be



implemented under any new contract for the production of drivers' licenses entered into after the adoption of those changes.

(j) The department shall include, on the face of the provisional driver's license, the original issuance date of the provisional driver's license in addition to any other issuance date.

(k) This section shall be known and may be cited as the Brady-Jared Teen Driver Safety Act of 1997.

SEC. 3. Section 12814.7 is added to the Vehicle Code, to read:

12814.7. (a) Notwithstanding the provisional licensing requirements of subdivisions (a) to (e), inclusive, of Section 12814.6, the department shall issue to a person who is at least 16 years of age, but under 18 years of age, a restricted class C driver's license valid for the operation of United States Army and California National Guard vehicles during the course and scope of their duties with the California National Guard if the following conditions are met:

(1) Upon application, the person provides the department with the executed enlistment contract for the applicant.

(2) The person qualifies for and is issued an instruction permit pursuant to Section 12509.

(3) Prior to the issuance of the class C license, the applicant provides proof satisfactory to the department of successful completion of a driver education and training course administered by the California National Guard.

(b) A driver's license issued pursuant to this section shall be subject to both of the following:

(1) Subdivisions (f) to (k), inclusive, of Section 12814.6.

(2) Pull-notice and periodic reports issued pursuant to Section 1808.1.

(c) The licensee shall comply with all other licensing requirements of this code, including, but not limited to, the requirements of Section 12804.9.

SEC. 4. The Department of Motor Vehicles is authorized to enter into an interagency agreement with the Military Department for reimbursement for the costs of implementing subdivision (f) of Section 12509, and Section 12814.7, of the Vehicle Code, as revised by Sections 2 and 3 of this act.

Approved _____, 2002

Governor

